

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated March 14, 2007. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

In the Office Action, Claims 3, 4, 6, 7, 15 and 16 are objected to for informalities. Claims 3, 4, 6, 7, 15 and 16 are amended herein in accordance with the Examiner's suggestion to cure the noted informalities. Accordingly, it is respectfully submitted that Claims 3, 4, 6, 7, 15 and 16 are now in proper form and it is respectfully requested that this objection be withdrawn.

Further, by means of the present amendment, the claims have been amended for better conformance to U.S. practice, such as deleting reference numerals typically used in European practice that are known to not limit the scope of the claims. The claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents. Applicants furthermore reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

Claims 1-4, 6, 7 and 12-16 are rejected under 35 U.S.C.

§103(a) as unpatentable over U.S. Patent No. 6,292,528 to Wieczorek ("Wieczorek") in view of U.S. Patent No. 5,770,706 to Wu ("Wu") and JP 09054162 to Haruo ("Haruo"). Claim 5 is rejected under 35 U.S.C. §103(a) over Wieczorek, Wu and Haruo in view of U.S. Patent No. 6,063,688 to Doyle ("Doyle"). Claim 8 is rejected under 35 U.S.C. §103(a) over Wieczorek, Wu and Haruo in view of U.S. Patent No. 6,149,478 to Boedinger ("Boedinger").

Wieczorek has been assigned to U.S. Philips Corporation, a wholly owned subsidiary of Koninklijke Philips Electronics N.V., and therefore, under 35 U.S.C. § 103(c), the subject matter of Wieczorek shall not preclude patentability of the present application under 103(a) when, if at the time the invention was made, Wieczorek was subject to an obligation of assignment to the same person as the present application.

The present application was assigned to Koninklijke Philips Electronics N.V., and was under such an obligation at the time of filing. Thus, since Wieczorek was assigned to Koninklijke Philips Electronics N.V. at the time the present application was made, Wieczorek cannot be used in a 35 U.S.C. § 103(a) rejection. Wieczorek is prior art only under subsection 102(e) and therefore

is excluded under 35 U.S.C. § 103(c) as discussed below.

The instant application was filed on December 18, 2001 and claims priority to DE 10063907.0 filed December 21, 2000. Under the Guidelines to the Implementation of Changes to 35 USC 102(g) and 103(c) and the Interpretation of the Term "Original Application" in the American Inventors Protection Act of 1999, Notice, 1233 OG 2 (April 11, 2000), the present application is entitled to the benefit of 103(c) (see, subsection II(A)(1)).

According to the Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 U.S.C. 103(c), 1241 OG 96 (Dec 26, 2000), the statement of an attorney or agent of record asserting common ownership at time the instant invention was made is sufficient evidence to disqualify the reference (see, section III, Modified Policy on Evidence to Establish Common Ownership or an Obligation for Assignment to the Same Person).

The Undersigned hereby states that both the present application and U.S. Patent No. 6,292,528 to Wieczorek was, at the time the invention of the present application was made, owned by or subject to an obligation of assignment to Koninklijke Philips Electronics N.V. (U.S. Philips Corporation being a wholly owned

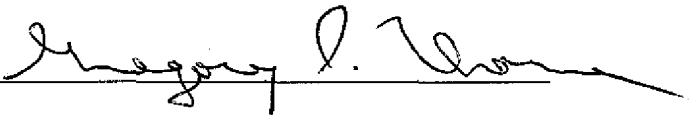
subsidiary of Koninklijke Philips Electronics N.V.)). A copy of this statement is being submitted on a separate sheet attached hereto.

Based on the foregoing, the Applicants respectfully submit that Wieczorek is disqualified as prior art. Accordingly, the Applicants respectfully submit that a recitation of Wieczorek is improper and should not bar the patentability of claims 1-8 and 12-16 under 35 U.S.C. § 103(a). Since even the Final Office Action acknowledges that the cited prior art without Wieczorek is lacking a sufficient showing to reject the claims, the Applicants respectfully request that the rejections be withdrawn and that claims 1-8 and 12-16 be allowed.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

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May 7, 2007

Enclosure: Statement of Common Ownership

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In re Application of

Atty. Docket: DE 000234

RALF DORSCHIED ET AL

Confirmation No.: 5133

Serial No. 10/023,168

Group Art Unit 2859

Filed: December 18, 2001

Ex. T.M. Reis

Title: DETECTOR FOR THE DETECTION OF ELECTROMAGNETIC RADIATION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

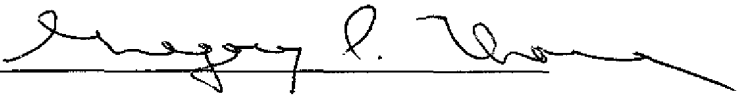
STATEMENT OF COMMON OWNERSHIP TO DISQUALIFY
A REFERENCE UNDER 35 U.S.C. § 103(c)

Sir:

The Undersigned hereby states that both the present application, U.S. Application Serial No. 10/023,168 and U.S. Patent No. 6,292,528 to Wieczorek were, at the time the invention of the present application was made, owned by or subject to an obligation of assignment to Koninklijke Philips Electronics N.V.

The Undersigned further hereby states that U.S. Philips Corporation is a wholly owned subsidiary of Koninklijke Philips Electronics N.V. and is therefore, "the Same Person" within the meaning of 35 U.S.C. 103(c).

Respectfully submitted,

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